

HOUSE BILL No. 1196

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-34-19; IC 31-37; IC 31-41.

Synopsis: CHINS and delinquent child dual determination. Requires that in a child in need of services (CHINS) determination, a court shall determine if the child has been adjudicated as a delinquent child. Requires that in a delinquency determination, a court shall determine if the child is a child in need of services. Provides that if a child is a child in need of services and has been adjudicated as a delinquent child, a court may determine if the department of child services, the department of correction, or the probation department of the court shall be the lead agency supervising the child.

Effective: July 1, 2015.

**McNamara, Mahan, Pierce,
Lawson L**

January 12, 2015, read first time and referred to Committee on Family, Children and Human Affairs.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1196

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-34-19-1, AS AMENDED BY P.L.48-2012,
2 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 1. (a) The juvenile court shall complete a
4 dispositional hearing not more than thirty (30) days after the date the
5 court finds that a child is a child in need of services to consider the
6 following:
7 (1) Alternatives for the care, treatment, rehabilitation, or
8 placement of the child.
9 (2) The necessity, nature, and extent of the participation by a
10 parent, a guardian, or a custodian in the program of care,
11 treatment, or rehabilitation for the child.
12 (3) The financial responsibility of the parent or guardian of the
13 estate for services provided for the parent or guardian or the child.
14 **(4) Whether the child has been adjudicated as a delinquent**
15 **child under IC 31-37 and is eligible for dual adjudication**



supervision under IC 31-41.

(b) If the dispositional hearing is not completed in the time set forth in subsection (a), upon a filing of a motion with the court, the court shall dismiss the case without prejudice.

SECTION 2. IC 31-34-19-10, AS AMENDED BY P.L.146-2006, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning the following:

(1) The needs of the child for care, treatment, rehabilitation, or placement.

(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.

(3) Efforts made, if the child is a child in need of services, to:

(A) prevent the child's removal from; or

(B) reunite the child with;

the child's parent, guardian, or custodian in accordance with federal law.

(4) Family services that were offered and provided to:

(A) a child in need of services; or

(B) the child's parent, guardian, or custodian; in accordance with federal law.

(5) The court's reasons for the disposition.

(6) Whether the child should be supervised as a delinquent child if the child has been previously adjudicated as a delinquent child under IC 31-37 and is eligible for dual adjudication supervision under IC 31-41.

(b) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

SECTION 3. IC 31-37-13-2, AS AMENDED BY P.L.146-2008, SECTION 635, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. If the court finds that a child is a delinquent child, the court shall do the following:

(1) Enter judgment accordingly.

(2) Order a predispositional report.

(3) Schedule a dispositional hearing.

(4) Determine whether the child has been found to be a child in need of services under IC 31-34 and is eligible for dual adjudication supervision under IC 31-41.

SECTION 4. IC 31-37-18-9, AS AMENDED BY P.L.48-2012, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 9. (a) The juvenile court shall accompany the court's dispositional decree with written findings and conclusions upon the record concerning approval, modification, or rejection of the dispositional recommendations submitted in the predispositional report, including the following specific findings:

(1) The needs of the child for care, treatment, rehabilitation, or placement.

(2) The need for participation by the parent, guardian, or custodian in the plan of care for the child.

(3) Efforts made, if the child is removed from the child's parent, guardian, or custodian, to:

(A) prevent the child's removal from; or

(B) reunite the child with;

the child's parent, guardian, or custodian.

(4) Family services that were offered and provided to:

(A) the child; or

(B) the child's parent, guardian, or custodian.

(5) The court's reasons for the disposition.

(6) Whether the child should be supervised as a child in need of services under IC 31-34 if the child has been previously adjudicated as a delinquent child under IC 31-37 and is eligible for dual adjudication supervision under IC 31-41.

(b) If the department does not concur with the probation officer's recommendations in the predispositional report and the juvenile court does not follow the department's alternative recommendations, the juvenile court shall:

(1) accompany the court's dispositional decree with written findings that the department's recommendations contained in the predispositional report are:

(A) unreasonable based on the facts and circumstances of the case; or

(B) contrary to the welfare and best interests of the child; and

(2) incorporate all documents referenced in the report submitted to the probation officer or to the court by the department into the order so that the documents are part of the record for any appeal the department may pursue under subsection (d).

(c) The juvenile court may incorporate a finding or conclusion from a predispositional report as a written finding or conclusion upon the record in the court's dispositional decree.

(d) If the juvenile court enters findings and a decree under subsection (b), the department may appeal the juvenile court's decree under any available procedure provided by the Indiana Rules of Trial



1 Procedure or Indiana Rules of Appellate Procedure to allow any
 2 disputes arising under this section to be decided in an expeditious
 3 manner.

4 (e) If the department prevails on appeal, the department shall pay
 5 the following costs and expenses incurred by or on behalf of the child
 6 before the date of the final decision:

- 7 (1) any programs or services implemented during the appeal
- 8 initiated under subsection (d), other than the cost of an
- 9 out-of-home placement ordered by the juvenile court; and
- 10 (2) any out-of-home placement ordered by the juvenile court and
- 11 implemented after entry of the dispositional decree or
- 12 modification order, if the juvenile court has made written findings
- 13 that the placement is an emergency required to protect the health
- 14 and welfare of the child.

15 If the court has not made written findings that the placement is an
 16 emergency, the department shall file a notice with the Indiana judicial
 17 center.

18 SECTION 5. IC 31-41 IS ADDED TO THE INDIANA CODE AS
 19 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 20 2015]:

21 **ARTICLE 41. DUAL ADJUDICATION**

22 **Chapter 1. Determination of Lead Agency**

23 **Sec. 1. (a) If a child has been found to be a:**

- 24 (1) child in need of services under IC 31-34; and
- 25 (2) delinquent child under IC 31-37;

26 **the court making the second determination may determine if the**
 27 **department of child services, the department of correction, or the**
 28 **probation department of the juvenile court shall be the lead agency**
 29 **and only agency that will supervise the child.**

30 **(b) In making a determination under subsection (a), the court**
 31 **shall consider:**

- 32 (1) the child's social and family situation;
- 33 (2) the child's experiences with the department of child
- 34 services; and
- 35 (3) the child's prior adjudications of delinquency.

36 **(c) The court may require the department of child services and**
 37 **the probation department of the juvenile court to work together in**
 38 **the supervision of a child.**

39 **(d) A court may order any service for a child who has a dual**
 40 **adjudication under this chapter that is available:**

- 41 (1) to a child in need of services under IC 31-34; or
- 42 (2) to a delinquent child under IC 31-37.

